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BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
DARRYL AND DEBORAH CHAPMAN)
 vs.) No. 12-0218
COMMONWEALTH EDISON COMPANY)
)
Complaint as to billing/charges)
in Chicago, Illinois.)

Chicago, Illinois

February 13, 2013

Met pursuant to notice at 1:30 p.m.

BEFORE:

MS. KATINA BAKER, Administrative Law Judge.

APPEARANCES:

MR. MARK L. GOLDSTEIN, PC, by
MR. MARK L. GOLDSTEIN
3019 Province Circle
Mundelein, Illinois 60060

and

MS. ERIN BUECHLER
440 South LaSalle Street, Suite 3300
Chicago, Illinois 60605

for Commonwealth Edison Company;

MR. DARRYL CHAPMAN
1060 West Hollywood
Chicago, Illinois, 60660
for the complainant.

L.A. COURT REPORTERS, by
Julianne Murphy, CSR
License No. 084-004407

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I N D E X

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Witnesses: Direct Cross direct cross Examiner
(None.)

E X H I B I T S

Number	For Identification	In Evidence
Complainant's		
1A and 1B	114	132
Complainant's		
2		134

1 JUDGE BAKER: Pursuant to the authority of the
2 Illinois Commerce Commission, I now call docket
3 12-0218, Darryl and Deborah Chapman v. Commonwealth
4 Edison. This is a complaint as to billing and
5 charges in Chicago, Illinois.

6 Could the parties please state their
7 name for the record, beginning with counsel.

8 MR. GOLDSTEIN: On behalf of Commonwealth Edison
9 Company, Mark L. Goldstein, 3019 Province Circle,
10 Mundelein, Illinois 60060. My telephone number is
11 (847) 949-1340.

12 With me this afternoon is Erin Buechler of
13 ComEd.

14 MR. DARRYL CHAPMAN: Darryl Chapman, Chapman
15 family, 1060 West Hollywood Chicago, Illinois,
16 60660, area code (312) 656-2239.

17 JUDGE BAKER: Just a refresher, last
18 time -- it was a bit unconventional, but the
19 company -- everybody had been duly made aware the
20 last time was going to be our evidentiary hearing.
21 The company was ready to proceed with witnesses.

22 Mr. Chapman, you needed to be afforded a

1 little bit more time, so the company presented
2 their case last time, their witnesses. Mr. Chapman
3 had an opportunity to cross-examine them.

4 And then now today, Mr. Chapman, you're
5 going to put on your case.

6 MR. DARRYL CHAPMAN: Okay.

7 JUDGE BAKER: Well, you can proceed then.

8 MR. GOLDSTEIN: Are you going to swear the
9 witness, Judge?

10 JUDGE BAKER: Well, okay.

11 MR. DARRYL CHAPMAN: Well, the witnesses, they
12 weren't able to be here, so ...

13 MR. GOLDSTEIN: Were you sworn the last time
14 yourself?

15 MR. DARRYL CHAPMAN: We've all been sworn.

16 JUDGE BAKER: But I mean, in any event, he's
17 not --

18 MR. DARRYL CHAPMAN: I'm not a witness. I'm the
19 actual person.

20 JUDGE BAKER: So --

21 MR. DARRYL CHAPMAN: In either case, two things:
22 I did file with Springfield a rule to show cause,

1 that this gentleman refused to forward the
2 documents in which I had requested.

3 Also both of his witnesses perjured
4 themselves when we were last here, and the
5 gentleman that actually came out to the building --
6 we had -- our janitor that was not in the United
7 States and we wanted him to come here, and he's the
8 one that actually allows him into the building.

9 He recalls three separate individuals that
10 on a consistent basis have shown up at our building
11 for unannounced visits, and on two separate
12 occasions I happened to be home with this gentleman
13 that testified because he shut off the power to
14 that side of the building.

15 And I immediately went downstairs to see
16 who's tampering with the power again and we saw
17 that it was him. And he testified that he had only
18 been to the building one time.

19 The other person testified -- well, I'll
20 say this: What we requested was to show that there
21 were several people that obviously were dispatched
22 to go to that building to specifically check this.

1 We'd like to -- I didn't write on an exhibit but to
2 show their own tag and the date of their tag for
3 the building.

4 JUDGE BAKER: Okay. I feel that we're -- we're
5 getting a little -- it's a little jumbled right
6 now, so why don't we take one issue at a time.

7 The first is you presented the company
8 with a discovery request, correct?

9 MR. DARRYL CHAPMAN: Yes, I did, and they did
10 not respond -- well, he sent some things but he
11 didn't respond to what we were requesting.

12 And if they have a dispatch -- I mean, as
13 many properties that we have in Chicago, they have
14 a record of who they dispatched and what they were
15 dispatched to do.

16 And he testified and said that he had been
17 to the building only one time and he did nothing,
18 and that's not true. He actually took off the
19 meter. And we wanted to show proof of --

20 JUDGE BAKER: What's your response to the
21 discovery issue?

22 MR. GOLDSTEIN: I thought we sent this to -- I

1 thought we sent this out to Mr. Chapman. It shows
2 that they were sent out on January 28th.

3 I don't know what else to say. If
4 Mr. Chapman would like time to review this, he's
5 more than free to do that.

6 With respect to what he's testifying to,
7 there was testimony from a tech who was at the
8 property who testified at the last hearing.
9 Mr. Chapman had the opportunity to cross-examine
10 him and now he's contesting --

11 JUDGE BAKER: Once again, let's deal with the
12 first thing first.

13 So this is a discovery request --

14 (Discussion off the record.)

15 MR. GOLDSTEIN: I guess --

16 JUDGE BAKER: It appears that he might have that
17 in front of him.

18 MR. GOLDSTEIN: Okay. So that was the
19 discovery. That's his request for discovery.

20 JUDGE BAKER: Are you saying -- are you
21 contending you received nothing?

22 MR. DARRYL CHAPMAN: No. I'm saying that the

1 statement in which the tech --

2 JUDGE BAKER: Let's set the tech aside because
3 you raised a first issue claiming that you didn't
4 receive --

5 MR. DARRYL CHAPMAN: We didn't receive -- we
6 asked for a record of all.

7 JUDGE BAKER: Okay. Let me see your discovery
8 request, what you sent the company.

9 MR. DARRYL CHAPMAN: Do you have that right
10 there in front of you?

11 JUDGE BAKER: Is that it, Counsel?

12 MR. DARRYL CHAPMAN: That should be it right
13 there.

14 JUDGE BAKER: Mr. Goldstein? I see that.

15 Well, I received as well but this I
16 believe is prior -- this was prior.

17 MR. GOLDSTEIN: Yeah.

18 JUDGE BAKER: -- to the last hearing date, that
19 request.

20 You don't have a copy of it?

21 MR. DARRYL CHAPMAN: Which one?

22 JUDGE BAKER: What you -- since the last

1 hearing, you've sent them a discovery request,
2 correct?

3 MR. DARRYL CHAPMAN: Yeah. I have a copy of
4 that.

5 JUDGE BAKER: Yeah. That would be great.

6 MR. DARRYL CHAPMAN: It was sent via e-mail.

7 JUDGE BAKER: Thanks. So I'm holding a
8 discovery request, a copy of a discovery request.
9 This is what it looks like. It was an e-mail.

10 MR. GOLDSTEIN: Right.

11 JUDGE BAKER: It's asking for all documents you
12 have from ICC concerning this case, all meter
13 readings and billing records September '09 to
14 September 2011.

15 Was that included in it?

16 MR. DARRYL CHAPMAN: No. It's actually
17 scratched out when it asks for the dates of --

18 JUDGE BAKER: I need to see what you are
19 alleging the problem is.

20 MR. DARRYL CHAPMAN: Okay. It doesn't cover
21 that time frame, for whatever reason.

22 JUDGE BAKER: Okay.

1 MR. DARRYL CHAPMAN: Incidentally and
2 mysteriously, it doesn't cover that time frame.

3 JUDGE BAKER: Then you also asked for all
4 complaints you have concerning this case.

5 I'm not actually sure what that means.
6 All employee records of all techs that have been
7 dispatched.

8 MR. DARRYL CHAPMAN: We never received that.

9 JUDGE BAKER: So you're saying that's not
10 included.

11 The meter readings, all records you have
12 from the building, the department of building from
13 September.

14 MR. DARRYL CHAPMAN: They didn't send that
15 either.

16 JUDGE BAKER: And all the complaints you
17 received from ICC.

18 So now I'm going to ask you: Are the
19 meter readings and billing records from
20 September '09 to September 2012 included in there?

21 MR. GOLDSTEIN: No, they're not, Judge. Here's
22 our response to Mr. Chapman with respect to all of

1 the data requests he made.

2 MS. BUECHLER: We went back as far as we could.

3 MR. GOLDSTEIN: We went back the two years as
4 required by statute.

5 JUDGE BAKER: So the two years from the filing
6 of the complaint, which would have been --

7 MR. GOLDSTEIN: And I thought this was quite
8 clear with respect to that request. Mr. Chapman
9 made that request at the status hearings in this
10 matter, and I believe at each time that he made
11 that request I informed him that ComEd is only
12 required to go back the two-year period.

13 MR. DARRYL CHAPMAN: The problem with that is
14 the actual incident itself is not recorded the same
15 date, so if he's saying with -- and correct me if
16 I'm wrong, but what appeared to be stall tactics of
17 continuing to escalate this case so that he could
18 say, Well, this is the date that you filed so we
19 don't have to show you any records of the actual
20 date that these things transpired to bring us to
21 why we're here today.

22 JUDGE BAKER: Let me just finish this data

1 request so that I can keep everything in order
2 here.

3 Are the employee records of the techs
4 that were dispatched, is that included in here?

5 MS. BUECHLER: We objected to a portion of that.
6 However, the reports that we had from techs that
7 went out there are included.

8 JUDGE BAKER: I'm assuming -- I haven't -- I
9 haven't looked at this, so I'm assuming you
10 objected to the records part, but anything
11 pertaining to his property you included?

12 MS. BUECHLER: Correct.

13 JUDGE BAKER: Okay. Fine. So that's not at
14 issue.

15 MR. DARRYL CHAPMAN: Well, that is an issue for
16 me because how do you get to pick and choose what
17 you're going to send out?

18 JUDGE BAKER: They're only going to send you out
19 any information pertaining to your property.
20 They're not going to send you out --

21 MR. DARRYL CHAPMAN: No. I asked only for my
22 unit.

1 JUDGE BAKER: Yeah. They're saying that they
2 sent that.

3 MR. DARRYL CHAPMAN: They didn't send that.

4 JUDGE BAKER: So you're going to have to show me
5 where you sent it so at least we can narrow this
6 down.

7 The department of building, was that in
8 there?

9 MR. GOLDSTEIN: That was objected to.

10 MS. BUECHLER: We objected to that. We didn't
11 know what -- we don't have the department of
12 building.

13 JUDGE BAKER: I understand.

14 MR. DARRYL CHAPMAN: But they were contacted by
15 the department of building after I filed the
16 complaint.

17 MR. GOLDSTEIN: That's your statement. That's
18 not what we discovered.

19 MR. DARRYL CHAPMAN: It not just ComEd; it's any
20 utility company dealing with a property, they have
21 to get involved.

22 If you have no records, you'd be only one

1 that don't have any accountability.

2 MS. BUECHLER: That deals with the techs that
3 went out to the property.

4 JUDGE BAKER: Hm-hmm.

5 MR. DARRYL CHAPMAN: It's kind of ironic the
6 gentleman testified that he only went out one time,
7 but now you have records of techs that went out?

8 That's not a meter reader. That's a tech.

9 JUDGE BAKER: No. I understand what I'm looking
10 at.

11 MR. DARRYL CHAPMAN: Because our janitor's
12 saying about eight or nine times three different
13 techs came out, removed the --

14 MR. GOLDSTEIN: Judge, you know, this is all
15 hearsay, and I haven't objected to it.

16 JUDGE BAKER: Well, here's the problem,
17 Mr. Chapman --

18 MR. DARRYL CHAPMAN: I can show the proof of
19 what we're saying as well.

20 JUDGE BAKER: What you need is the janitor here.
21 That's what we've given you ample time to do.

22 MR. DARRYL CHAPMAN: We do have an affidavit

1 for --

2 MR. GOLDSTEIN: But that's not the janitor, is
3 it, Mr. Chapman?

4 MR. DARRYL CHAPMAN: We have the pictures also.
5 We don't have the janitor, but we have more than
6 enough that doesn't have anything to do with the
7 janitor.

8 MR. GOLDSTEIN: All right. Let's proceed with
9 that then.

10 MR. DARRYL CHAPMAN: Give her an opportunity to
11 go over this first issue.

12 JUDGE BAKER: Who is the tech that was --
13 testified last time?

14 MS. BUECHLER: John O'Brien.

15 JUDGE BAKER: Okay.

16 MS. BUECHLER: And those were part of our
17 exhibits -- a portion of that was part of our
18 exhibit at the hearing.

19 MR. GOLDSTEIN: We put in his report.

20 JUDGE BAKER: Okay. Did you receive all of this
21 in --

22 MR. DARRYL CHAPMAN: I looked at that, and I

1 wasn't able to make heads or tails of what it's
2 saying.

3 JUDGE BAKER: Okay. Well, you had requested
4 that they send the records out of their employees,
5 their techs when they came out, and it does appear
6 that that's what they've done.

7 It's 1.04, attachment 1.

8 MR. DARRYL CHAPMAN: And going by that, wouldn't
9 that be more than one tech? The one that testified
10 that he was the only one, he only went out there
11 one time, that's an inaccurate statement.

12 I'm trying to find what you were -- you
13 said 01 --

14 JUDGE BAKER: It's 1.04, attachment 1, and it's
15 going to look like this.

16 MR. GOLDSTEIN: Judge --

17 MR. DARRYL CHAPMAN: Let me see that first page
18 of it.

19 JUDGE BAKER: Well, that's just -- that's their
20 response to you.

21 MR. GOLDSTEIN: Mr. O'Brien testified with
22 respect to his visit to the property. That's all

1 he can testify to.

2 MR. DARRYL CHAPMAN: He also testified that one
3 and only time in August that -- it's in the court
4 reporter.

5 He only testified he only went to the
6 building one time.

7 JUDGE BAKER: Okay. So are all the meter
8 readings and billing records from what was filed in
9 March of '12 to March of '10, is that included in
10 there?

11 MS. BUECHLER: That would be included in 1.02, I
12 think.

13 MR. GOLDSTEIN: Yeah.

14 MR. DARRYL CHAPMAN: You should have October
15 of '10.

16 JUDGE BAKER: Well, yes, because it's going to
17 go March '10 till --

18 MR. DARRYL CHAPMAN: Yeah, it should. So
19 October '10 --

20 JUDGE BAKER: That's going to be included in
21 there.

22 MR. DARRYL CHAPMAN: October '10 is showing that

1 there was no problems. Everything was just great.

2 JUDGE BAKER: Okay. We're going to get to all
3 of that. Let's just -- I still want to address
4 this.

5 So it appears to me in reviewing what
6 was sent to Mr. Chapman, they are only required to
7 keep records for two years, so they did send you
8 two years' worth of records.

9 MR. DARRYL CHAPMAN: It's actually not because
10 it skips over. It has April, May --

11 JUDGE BAKER: What are you looking at?

12 MR. DARRYL CHAPMAN: I'm looking at the billing
13 cycle from when it starts at the bottom at
14 January 30th of '09 and then it just begins to skip
15 up. And it conveniently skips over the actual
16 dates.

17 MR. GOLDSTEIN: What is he looking at?

18 JUDGE BAKER: Can you just direct everybody's
19 attention to the records that --

20 MS. BUECHLER: Okay. I believe Mr. Chapman is
21 referring to ComEd discovery response 1.02,
22 attachment 1, Bates stamped 135, which is the meter

1 reading history for his meter. It begins at
2 March 31, 2009.

3 We redacted a portion of the bill account
4 numbers because those did not -- they were not
5 Mr. Chapman's account. So for privacy concerns we
6 had to redact those.

7 However, the readings are all included.
8 So it goes month by month starting with March 31st,
9 April 28th --

10 JUDGE BAKER: So we actually have '09 in there?

11 MS. BUECHLER: Correct, for the meter reading,
12 not for the --

13 MR. GOLDSTEIN: Not for the billing.

14 MS. BUECHLER: The actual bills are the billing
15 summary.

16 JUDGE BAKER: Okay.

17 MS. BUECHLER: So it goes month by month. I
18 don't see skipping, so I'm not quite sure --

19 JUDGE BAKER: Can you show --

20 MR. GOLDSTEIN: What does he mean by skipping?
21 What do you mean by that?

22 MR. DARRYL CHAPMAN: I'm showing that you --

1 according to this, all of the billing, there's no
2 problem with the billing. Everything was just
3 hunky-dory.

4 MR. GOLDSTEIN: Exactly.

5 MR. DARRYL CHAPMAN: Then we have pictures where
6 they tagged the meters themselves.

7 JUDGE BAKER: Remember, we're trying to do
8 things one thing at a time.

9 So we've established that you have, in
10 fact, the meter readings.

11 Can you direct my attention, Mr. Chapman's
12 attention to his billing history within that
13 document?

14 MS. BUECHLER: Sure. Again, 1.02, attachment 1,
15 Bates stamped 6 through 7 would be the account
16 summary, and then beginning at Bates stamp No. 8 --

17 JUDGE BAKER: What dates are we with that?

18 MS. BUECHLER: For that particular account
19 summary it begins in January 2011 to December 2012.

20 The billing -- the bills that we have --
21 the actual bills, which begin on Bates stamp No. 8
22 through 57, starting at page 56, we have the

1 December 28th, 2010 bill all the way through
2 December 27th, 2012.

3 MR. DARRYL CHAPMAN: So you don't have a
4 January -- I mean, I'm sorry. Do you have an
5 October 2010?

6 MS. BUECHLER: No.

7 MR. DARRYL CHAPMAN: Do you have a
8 November 2010?

9 MS. BUECHLER: Yes, that's the -- because it's
10 service date.

11 So, Judge, we bill a month behind, so
12 December --

13 JUDGE BAKER: Can you give me the first date?

14 MS. BUECHLER: Sure. The first date -- the bill
15 was issued December 28th, 2010. That was for
16 service from November 23rd, 2010 through
17 December 28th, 2010.

18 JUDGE BAKER: And it goes through 2012, correct?

19 MS. BUECHLER: Yes, Judge.

20 JUDGE BAKER: Or actually does it -- it goes
21 through today, current?

22 MR. GOLDSTEIN: No. It isn't current.

1 JUDGE BAKER: I mean, aside from what he hasn't
2 been billed yet.

3 MR. GOLDSTEIN: It goes through --

4 MS. BUECHLER: The actual bills go through
5 December 27th, 2012, as did the account summary.

6 JUDGE BAKER: Okay.

7 MS. BUECHLER: And that was because we sent it
8 out in January.

9 JUDGE BAKER: Okay. So your contention just is
10 that it's only for the past two years then?

11 MR. DARRYL CHAPMAN: Well, we didn't have
12 power -- where they actually have a bill, we didn't
13 have power to the unit.

14 JUDGE BAKER: We're going to get to that right
15 now.

16 What you originally said was, I didn't get
17 this stuff.

18 But now we're establishing --

19 MR. DARRYL CHAPMAN: I don't have that, right.

20 JUDGE BAKER: Well, we're establishing what they
21 sent you. That's what I want to do is establish
22 what, in fact, you received.

1 So the billing records were --- the two
2 years that you were required to provide you did
3 send to them. The tech records, you did send to
4 them. The building department, you did not send to
5 them.

6 MS. BUECHLER: We objected. Correct, Judge.

7 JUDGE BAKER: Then you have all complaints
8 you've received from ICC department. I'm not quite
9 sure what that means.

10 MR. DARRYL CHAPMAN: Well, we filed several
11 complaints with ComEd and --

12 JUDGE BAKER: You mean your complaints?

13 MR. DARRYL CHAPMAN: Yes. We asked them --
14 because he said that he had no complaints in the
15 last court order -- I mean, the last court date,
16 and I'm trying to figure out how it is you don't
17 have any complaints outside of this one complaint
18 letter that she has in her hand and I have a copy
19 of it here, as if to say this is the only time that
20 anyone has made any complaints to what's been going
21 on.

22 MR. GOLDSTEIN: That certainly is the only

1 formal complaint, Judge.

2 MR. DARRYL CHAPMAN: We filed several complaints
3 even trying to get ComEd to go out to our building
4 to correct the issue.

5 And they finally came out. They have no
6 record of them coming out for whatever --

7 MR. GOLDSTEIN: Well, you have the record of the
8 techs coming out to the building.

9 MR. DARRYL CHAPMAN: Do you have a record of a
10 tech coming out for October 2010?

11 JUDGE BAKER: So okay. Why don't we take it one
12 step at a time. You're going to start by telling
13 me what the problem is and that's how we're going
14 to proceed.

15 MR. DARRYL CHAPMAN: Okay.

16 JUDGE BAKER: What you're contesting, what dates
17 the problems occurred, et cetera. Okay.

18 MR. DARRYL CHAPMAN: Basically they have a
19 billing cycle supposedly for the month of October,
20 and it's listed --

21 JUDGE BAKER: What October are we talking about?

22 MR. DARRYL CHAPMAN: October 2010, and I'm

1 trying to figure out how is it that you have a
2 billing record and there was no power to the unit
3 during that time frame.

4 JUDGE BAKER: You've got to start at the
5 beginning where the problem started. Start at the
6 beginning.

7 I've never heard this story before. I'm
8 your neighbor and you're going to explain to me
9 what's going on with ComEd.

10 MR. DARRYL CHAPMAN: Well, basically our power
11 was going on and going off, and we contacted the
12 association to bring it to their attention.

13 JUDGE BAKER: What do you mean it was going on
14 and off? Just you'd be sitting in the unit and it
15 would just stop?

16 MR. DARRYL CHAPMAN: Just like that. So we
17 would immediately run down the back stairs to run
18 to the power area and find out if someone's
19 downstairs tampering with the meters because that
20 was another issue when we had two individuals
21 running --

22 JUDGE BAKER: How long would it go out for?

1 MR. DARRYL CHAPMAN: It would be out for a week.

2 It's just -- it's gone.

3 And then one side of --

4 JUDGE BAKER: And then when that would happen,
5 would you contact ComEd?

6 MR. DARRYL CHAPMAN: Yes. We would call them
7 immediately. We'd call them. We'd get their
8 recording.

9 JUDGE BAKER: How often was that happening?

10 MR. DARRYL CHAPMAN: It was during that month we
11 were having that problem.

12 JUDGE BAKER: Of October '10?

13 MR. DARRYL CHAPMAN: Yeah. Now, let's say just
14 to put out a number, let's say the summertime -- or
15 let's say September we started to notice that we
16 only had power on one side of the house, and you'd
17 plug up something, everything would go off.

18 JUDGE BAKER: Like a surge where you've got to
19 go flip the switch or something?

20 MR. DARRYL CHAPMAN: Exactly. So we'd go hit
21 the surge and nothing would happen.

22 JUDGE BAKER: It wouldn't come back on?

1 MR. DARRYL CHAPMAN: It wouldn't come back on
2 because you have the individual surge.

3 JUDGE BAKER: Would it be showing that it was
4 flipped off, though?

5 MR. DARRYL CHAPMAN: No -- right. Once you hit
6 the surge, you would show --

7 JUDGE BAKER: You know how like if there's too
8 much on a particular circuit and then it blows,
9 when you go to the box, you see where it's clicked
10 off?

11 MR. DARRYL CHAPMAN: Exactly. You'll see which
12 level.

13 JUDGE BAKER: So would it be clicked off?

14 MR. DARRYL CHAPMAN: No. No, it wouldn't. It's
15 like one, two, three, so it kind of divides up and
16 you can tell where the overload -- if it's two, we
17 would assume that it would come out of the dining
18 room because of the air-conditioner. It's 225.
19 That would be the obvious.

20 But if there's no air-conditioner on and
21 we see that it's coming out of the bedroom, then
22 we're trying to figure out, Well, how is that? The

1 air-conditioner is not on.

2 So none of it was really making sense.

3 JUDGE BAKER: So when you'd go down and you
4 would try and flip it on and off, it still wouldn't
5 come back on?

6 MR. DARRYL CHAPMAN: Not from upstairs, so then
7 we'd have -- because we have a circuit breaker.
8 Each unit has their own circuit breaker.

9 So we would check from the unit to find
10 out what's going on.

11 JUDGE BAKER: That's what I thought we were
12 talking about, that you were at the circuit
13 breaker.

14 MR. DARRYL CHAPMAN: Right. Right. We have
15 two.

16 JUDGE BAKER: Okay.

17 MR. DARRYL CHAPMAN: So then we would have
18 realized, okay, there's a bigger problem, to go
19 downstairs and hit the main power source or have
20 the building manager to shut the power down, turn
21 the power back up, hoping everything would reload.

22 JUDGE BAKER: And would it?

1 MR. DARRYL CHAPMAN: It's kind of iffy. There's
2 sometimes it's not going to reload and we couldn't
3 figure out what the issue was. But when it did
4 come back up, it was only one side of the house.

5 Then finally it completely shut off. So
6 we're contacting ComEd and they sent out an
7 individual and he said, Well, you know what, if
8 it's outside of the building, we would take care of
9 it. If it's inside of the building, it's your
10 responsibility.

11 And we talked to the association. We
12 said, Look, we pay a monthly assessment. Service
13 us. We need this taken care of.

14 Well, then it was ComEd, constantly
15 calling their corporate office, that said that
16 you're going to have your own contractor to come
17 out here and do this.

18 JUDGE BAKER: Because ComEd told you that it was
19 inside the building?

20 MR. DARRYL CHAPMAN: Right, just over their
21 phone. They hadn't come out as of yet, and they
22 said, Well, you know --

1 JUDGE BAKER: Well, I thought somebody came out,
2 because --

3 MR. DARRYL CHAPMAN: They finally had a person
4 come out to the alley. He didn't come in the
5 building.

6 And I guess his research said that
7 everything's fine on the wire in the alley. So we
8 had to call back to get someone to come out and
9 tell them, We need you to come inside of this
10 building where our meter's at.

11 JUDGE BAKER: Okay.

12 MR. DARRYL CHAPMAN: So once we finally got
13 someone to come out, the gentleman came out and he
14 tagged the meter as an emergency.

15 And he did the check. He went upstairs,
16 knocked on the door and said --

17 JUDGE BAKER: Knocked on your door?

18 MR. DARRYL CHAPMAN: Knocked on our door and
19 said that, I'm about to shut off your power.

20 JUDGE BAKER: Why?

21 MR. DARRYL CHAPMAN: And we asked him -- well,
22 we sent for him so we had been waiting for someone

1 to come.

2 JUDGE BAKER: Why is he going to shut it off?

3 MR. DARRYL CHAPMAN: Well, he's trying to find
4 out -- he wants to do a check on the power source
5 and what we had explained what the problem is.

6 So he said okay, and we said that's fine.
7 So he goes downstairs and he shuts off the power
8 and he comes back up and he said, Now I want to
9 check from the inside.

10 And he saw the lights on. He said, Wait a
11 minute. I shut off your power.

12 And we said, This is why we've been trying
13 to get you guys out here.

14 And he said, Wait a minute.

15 So he goes back downstairs and he shuts
16 the power off again. He comes backs up; the power
17 is still on.

18 So we're telling him that certain
19 aspects of the house we're not using until we
20 figure out what's wrong because it looks like if we
21 turn this light on, then that one dims or
22 everything goes off.

1 So as we're explaining this to the ComEd
2 guy, he goes back downstairs and he said, Okay.
3 I'm going to shut the power off from your unit.

4 And he shuts the power off --

5 JUDGE BAKER: Meaning what, I'm going to shut it
6 off from your unit?

7 MR. DARRYL CHAPMAN: The circuit breaker.

8 JUDGE BAKER: I thought that's what he was
9 doing.

10 MR. DARRYL CHAPMAN: No. He was doing it from
11 the main power source downstairs.

12 JUDGE BAKER: Okay.

13 MR. DARRYL CHAPMAN: And when he hit the power
14 source, we still --

15 JUDGE BAKER: So there's two -- there's your
16 individual circuit breaker and then there's a
17 building?

18 MR. DARRYL CHAPMAN: Exactly, yeah.

19 JUDGE BAKER: Okay.

20 MR. DARRYL CHAPMAN: Then there's an emergency
21 one that ComEd has the only access to too.

22 But once he turned the power off, we still

1 had power, and he immediately tagged the meter and
2 shut off all the power and said, This is a
3 hazardous -- how long has this been going on?

4 And we said, Dammit. We've been trying to
5 tell you guys this all along. This is why we're
6 trying to get you guys out here.

7 JUDGE BAKER: So when was this that he came out?

8 MR. DARRYL CHAPMAN: This is October of 2010.

9 JUDGE BAKER: October what?

10 MR. DARRYL CHAPMAN: 21st.

11 JUDGE BAKER: 2010. Okay.

12 So now you had stated that it was -- that
13 had been happening for the month of October 2010.

14 MR. DARRYL CHAPMAN: Yes.

15 JUDGE BAKER: Okay.

16 MR. DARRYL CHAPMAN: And then we didn't have any
17 power.

18 JUDGE BAKER: So he shut it off completely.

19 MR. DARRYL CHAPMAN: Right. We didn't have any
20 power from that point. We had to get a contractor
21 to come out and chase the wires and find out --

22 JUDGE BAKER: What was the problem?

1 MR. DARRYL CHAPMAN: Exactly.

2 JUDGE BAKER: What was the problem?

3 MR. DARRYL CHAPMAN: It was an overload because
4 there was power coming into our unit and going out
5 of our unit and it wasn't explained where is it
6 coming from.

7 So we're thinking it's got to be my
8 next-door neighbor, so we were trying to call the
9 other owner of that unit. And they had a -- the
10 unit was going into foreclosure so we really
11 weren't getting the cooperation we needed from that
12 individual.

13 So we had to bring the association on
14 board and say, Look. This is what's going on.
15 They've tagged the meter. ComEd said we will not
16 turn this power on until after the contractor has
17 found what is causing this unload or --

18 JUDGE BAKER: When did the contractor come out?

19 MR. DARRYL CHAPMAN: Came out, I would say,
20 about a week later, two weeks later. I'm
21 estimating time. I would have to look at the
22 actual date.

1 JUDGE BAKER: And did he fix it then, the
2 problem?

3 MR. DARRYL CHAPMAN: Yes, he did. He came
4 out -- he didn't cure the whole problem but he --
5 it was more than one wire that was going into our
6 unit and coming out of our unit.

7 He snipped those, and there was a device,
8 some type of metal device. He said that it was
9 very dangerous and very unsafe. Whoever did this
10 obviously has some electric knowledge but an idiot
11 to even take the chance to do something like that,
12 because as he removed it, we had this fire just
13 shoot up and everyone fell back.

14 And the guy shut the whole building down,
15 so the other owners started to come downstairs and
16 say, you know, What's going on here?

17 And we had to explain to them we had to
18 shut down the building, almost had an electrical
19 fire here. We're trying to find out where these
20 wires are being chased.

21 And the contractor said that it's not
22 his responsibility to do this. It is hazardous and

1 he's going to notify the building department.

2 JUDGE BAKER: Wait. Let me stop you there.

3 So the hazard was -- just let me get this
4 clear in my mind. The hazard was how it was shut
5 off?

6 MR. DARRYL CHAPMAN: No. How it was wired.

7 JUDGE BAKER: How it was originally wired?

8 MR. DARRYL CHAPMAN: No. How it had been
9 illegally wired.

10 JUDGE BAKER: Who wired that?

11 MR. DARRYL CHAPMAN: We don't know who did that.
12 We felt it was the previous association president,
13 because it looked like -- we would have our
14 association meetings and only the residents were
15 complaining about on one side of the building 105,
16 205, 305, 405, and 105 and 305 and 405 would have
17 like these \$100 bills, and it's like this one unit
18 that -- one of the association, they got a \$17
19 bill.

20 So they didn't really want to help us.

21 JUDGE BAKER: So the contractor comes out. He
22 looks at it and he says -- he fixes it --

1 MR. DARRYL CHAPMAN: He says definitely
2 tampered.

3 JUDGE BAKER: But he said, This was wired wrong?

4 MR. DARRYL CHAPMAN: No. He said --

5 JUDGE BAKER: Or this was tampered?

6 MR. DARRYL CHAPMAN: Yeah. It had been set up
7 like that.

8 JUDGE BAKER: Okay. But he fixed it that day,
9 correct?

10 MR. DARRYL CHAPMAN: He removed those devices,
11 right.

12 JUDGE BAKER: Correct. So now he's fixed it?

13 MR. DARRYL CHAPMAN: Well, he disconnected my
14 unit.

15 Now, the problem we were having is they're
16 having billing as if there's no problem and we've
17 got a month and a half, almost two months of no
18 power. Yet they have a bill for our unit.

19 And we're wondering which unit is that
20 meter actually recording, because you don't have
21 the same accuracy of what we are experiencing.

22 JUDGE BAKER: So the date that that contractor

1 came out and was able to rectify the situation,
2 what date was that?

3 MR. DARRYL CHAPMAN: That is a week after the
4 meter was tagged, so we're saying --

5 JUDGE BAKER: So October --

6 MR. DARRYL CHAPMAN: 29th or somewhere,
7 something like that.

8 JUDGE BAKER: 29th, we'll say. So then your
9 issue -- let me understand this. Let me make sure
10 I'm understanding this correctly.

11 Your issue is that between -- we're not
12 sure but we're going to say October 1st, because
13 you're saying the month of October. Between
14 October 1st and October 29th, you were having
15 sporadic electricity?

16 MR. DARRYL CHAPMAN: Well, there's almost a
17 whole month where we had no power, so we were -- I
18 don't have the actual dates, but I'm -- what I can
19 testify is that my neighbor -- we had to run our
20 extension cord, a power cord, out of their unit
21 into our unit so we would have power, which caused
22 another discrepancy with the association because

1 they're saying, You have a wire in the hall.

2 JUDGE BAKER: Right. Right. Right.

3 MR. DARRYL CHAPMAN: You know.

4 JUDGE BAKER: Here's what I need to get is I
5 asked you when this problem started. You said
6 October.

7 MR. DARRYL CHAPMAN: No. I said -- I estimated
8 around September that we started noticing power
9 just half a unit, a week with no power, then one
10 day it's on.

11 We noticed that around -- I estimated like
12 September.

13 JUDGE BAKER: September what?

14 MR. DARRYL CHAPMAN: It became the norm for a
15 minute. We were still waiting for someone to come
16 in and correct.

17 Because we pay an assessment, we're trying
18 to get them to do what they need to do. So once we
19 contacted --

20 JUDGE BAKER: Okay. Well, we'll just say
21 September 1st. So is your issue -- the issue then
22 is between September 1st, 2010 and October 29th,

1 2010, is that what we're discussing here, the bill
2 for those two months?

3 MR. DARRYL CHAPMAN: No. I'm looking -- I have
4 a problem with the entire billing for the whole
5 time that our family has owned that unit, not just
6 this time frame in question because you have a bill
7 for a unit that don't have power, so what are you
8 recording?

9 I mean, did you just assume we had power
10 and send us a bill? I mean, we asked them for a
11 correct meter reading. We don't get one. We get
12 surprise visits.

13 What are they doing? Why are they showing
14 up unannounced and saying, Well, I called you ten
15 minutes ago?

16 Well, you've had a week to schedule an
17 appointment.

18 JUDGE BAKER: Then what you're alleging is that
19 based on --

20 MR. DARRYL CHAPMAN: It's inaccurate billing.

21 JUDGE BAKER: But based on the fact that during
22 that September/October period you were without

1 electricity, you still received a bill for that
2 period?

3 MR. DARRYL CHAPMAN: Yes.

4 JUDGE BAKER: So that then makes you think -- it
5 makes you question all of your bills from then. Am
6 I correct?

7 MR. DARRYL CHAPMAN: Absolutely.

8 JUDGE BAKER: Okay.

9 MR. DARRYL CHAPMAN: And here their records are
10 showing there's no problem with this unit and we
11 don't understand -- we want to know what meter are
12 you reading? And how is it that, you know, we were
13 getting --

14 JUDGE BAKER: Do you have the contractor's bill?
15 Do you have --

16 MR. DARRYL CHAPMAN: We have his affidavit.

17 JUDGE BAKER: I mean, that -- he's giving me an
18 affidavit --

19 MR. DARRYL CHAPMAN: They have a copy of it
20 already.

21 JUDGE BAKER: -- and some pictures. I'm not
22 even --

1 MR. GOLDSTEIN: Are these two pictures --

2 MR. DARRYL CHAPMAN: This here is when your guy
3 removed the meter to show this attachment that --

4 MR. GOLDSTEIN: What is this?

5 MR. DARRYL CHAPMAN: That's your guy marking the
6 meter. That stamp only comes from ComEd when there
7 is a problem and you have 72 hours to correct that
8 issue.

9 Only ComEd can tag a unit. That's your
10 sticker. And it has a type of substance on it so
11 you can't peel it off or you can't do anything with
12 it.

13 And that's what disturbs me the most, that
14 they have no knowledge of this.

15 MR. GOLDSTEIN: And you did not provide these
16 two pictures to me prior to today, did you?

17 MR. DARRYL CHAPMAN: I don't know. You got them
18 in a package. You should have all of them. You
19 should have --

20 MR. GOLDSTEIN: Well, what I received --

21 MR. DARRYL CHAPMAN: You should have the device
22 that the contractor removed, the pictures of the

1 meters.

2 MR. GOLDSTEIN: I have this picture, your
3 response to our data requests, and Mr. Warren's
4 affidavit, the electrical contractor.

5 MR. DARRYL CHAPMAN: Correct. Correct.

6 MR. GOLDSTEIN: But I do not -- I never -- did
7 not receive these pictures.

8 MR. DARRYL CHAPMAN: Those are from Mr. Warren
9 and you should have all of that.

10 MR. GOLDSTEIN: But I did not receive these.

11 MR. DARRYL CHAPMAN: How could you not? You
12 have this and you don't have that?

13 MR. GOLDSTEIN: Yes.

14 All right. Are you going to mark this as
15 exhibits?

16 JUDGE BAKER: Yeah.

17 MR. GOLDSTEIN: Is this the same picture?

18 MR. DARRYL CHAPMAN: Yeah. You should have --
19 give me one of those back. Those are the two same.

20 MR. GOLDSTEIN: What is this?

21 MR. DARRYL CHAPMAN: Same picture as that one.

22 He took two different pictures to try to show why

1 they tagged -- that little writing on there is
2 supposed to show overload and why they tagged the
3 meter in the first place.

4 MR. GOLDSTEIN: I will be objecting to the
5 exhibit itself, Judge.

6 JUDGE BAKER: Well, I'll tell you, I mean,
7 you're definitely -- you're not a photographer.

8 I don't even know what I'm looking at
9 here.

10 MR. DARRYL CHAPMAN: That's the meter and that
11 orange tag is what they actually -- what ComEd puts
12 on it if there is a problem or hazardous with the
13 meter.

14 JUDGE BAKER: I can't, though -- this appears to
15 be writing here. What is that writing?

16 MR. DARRYL CHAPMAN: That's what the tech wrote
17 on there, the problem why he tagged the meter.

18 JUDGE BAKER: Why didn't you take a picture of
19 that?

20 MR. DARRYL CHAPMAN: That's what that is a
21 picture of.

22 JUDGE BAKER: But I mean where the writing is

1 legible.

2 MR. DARRYL CHAPMAN: I didn't take the pictures.

3 This is what -- the contractor took the pictures.

4 MR. GOLDSTEIN: Judge, you know, I obviously
5 have objections. He did not take the picture
6 himself --

7 MR. DARRYL CHAPMAN: I'm present. The building
8 department --

9 MR. GOLDSTEIN: Can I finish, please?

10 MR. DARRYL CHAPMAN: When I'm finished, you can.

11 MR. GOLDSTEIN: No, I can't. It's my turn.

12 (Discussion off the record.)

13 JUDGE BAKER: Gentlemen, please. Let counsel
14 finish his objection. He was in the middle of an
15 objection. Let him finish.

16 MR. GOLDSTEIN: There is no way of telling what
17 the writing is on that -- whatever that thing that
18 is there.

19 We don't even know if that is actually --
20 because we can't -- the picture is so blurred, we
21 cannot see whether it is actually the complainant's
22 meter.

1 And so it has absolutely zero evidentiary
2 value, and I object to it and ask that it not be
3 admitted.

4 MR. DARRYL CHAPMAN: Your Honor, we have five
5 people that were present when -- this date that
6 this was tagged, this date that this thing was
7 removed, that's why he took a picture of it.

8 You have the Chicago building department.
9 You have the owner of the unit. You have the
10 contractor, and you have a maintenance man.

11 JUDGE BAKER: I have no evidence, though, that
12 they were actually there. I mean, not -- I have no
13 reason to disbelieve you but I certainly have no
14 reason to -- you have nothing to corroborate that.

15 MR. DARRYL CHAPMAN: The sticker itself, no one
16 can create this. This is a ComEd sticker only.

17 You go to any unit, they still use these
18 today.

19 JUDGE BAKER: I mean, that picture at least
20 appears -- let me see that picture. That appears a
21 little more clear.

22 Or I don't know. Well, no. I guess it's

1 from a distance. It may appear more -- what did
2 that sticker say?

3 MR. DARRYL CHAPMAN: It's saying left load or
4 overload to the meter and that's why the power's
5 been shut off.

6 JUDGE BAKER: Here's what I'm going to do,
7 Counsel. I'm going to let the pictures in and
8 they're going to carry the weight -- the value of
9 what they provide.

10 MR. GOLDSTEIN: I would also note for the
11 record, Judge, that -- if I can see that.

12 We don't even know what year that
13 particular -- whatever that thing is. I can't even
14 tell that it's a meter from the picture.

15 It just says October 21st. There is no
16 year on it. It could be --

17 JUDGE BAKER: Well, let the record reflect that
18 the October 21st is the camera. It's not the --
19 it's the camera date, so --

20 MR. GOLDSTEIN: It's the camera date of what
21 year?

22 MR. DARRYL CHAPMAN: 2010.

1 MR. GOLDSTEIN: There's no way of telling that
2 from the picture.

3 MR. DARRYL CHAPMAN: The same month that you
4 have no record of even having --

5 JUDGE BAKER: What he's saying is that it
6 doesn't say 2010. It just says October 21st.

7 MR. GOLDSTEIN: So it could be 2001 for all I
8 know.

9 JUDGE BAKER: And here's what I'm going to do --

10 MR. GOLDSTEIN: And so it has no evidentiary
11 value, and again, I really request that you not
12 admit this into evidence. It has zero evidentiary
13 value.

14 We can't read the writing on the --
15 whatever that is. You can't even tell if it's a
16 meter.

17 And so it has no value and I object
18 strongly to it being admitted into evidence.

19 MR. DARRYL CHAPMAN: Your Honor, it's
20 coincidentally this is the month they have no
21 record of we're having service but yet -- let me
22 correct myself, that there's no problem with the

1 service and they sent a bill out for the next
2 month.

3 JUDGE BAKER: I'm going to let it in and I'm
4 going to give it the weight that it deserves.

5 So then we have this picture. What is
6 this, another --

7 MR. DARRYL CHAPMAN: That is the actual picture
8 of behind the meter, the device that the contractor
9 had to remove that caused the fire as he was
10 removing it.

11 MR. GOLDSTEIN: Again, Judge, this picture is
12 blurred beyond recognition of anything. It serves
13 absolutely no evidentiary value. It has zero
14 evidentiary value.

15 We can't even tell what it is a picture
16 of. We cannot tell what the meter number is either
17 on this picture or on the exhibit that you
18 admitted, so we have no way of verifying what any
19 of these pictures show.

20 I strongly object to this exhibit also.

21 JUDGE BAKER: My ruling is going to be the same.
22 I'm going to let all these pictures in.

1 I will, for the record, acknowledge that
2 they are of the poorest quality of photographs. I
3 mean, we can all agree on that. These pictures
4 were --

5 MR. DARRYL CHAPMAN: The best part about it is
6 that it shows their sticker that only they could
7 release.

8 And if we go to anyplace where there's a
9 meter and remove the meter, you would see this same
10 picture here because this is what's behind every
11 meter that you --

12 JUDGE BAKER: Well, I understand what you're
13 saying. The problem I'm having with that,
14 Mr. Chapman, is what in this picture proves that
15 it's their sticker?

16 MR. DARRYL CHAPMAN: Because only ComEd has --

17 JUDGE BAKER: Has orange stickers?

18 MR. DARRYL CHAPMAN: That sticker particularly.

19 JUDGE BAKER: What sticker? I mean, I'm not
20 even -- you have to acknowledge that based on this
21 picture I don't know where the sticker starts,
22 where the sticker ends.

1 All I'm able to see is something that
2 appears to be orange with a white -- with something
3 white that has some -- it's -- I mean, from the
4 quality of the picture, there's nothing that
5 identifies it as ComEd. Really all you're looking
6 at is white and orange.

7 But again, I'm going to allow it in.
8 We're going to see how it ties in with the rest of
9 your case, but these -- I am just noting on the
10 record that these pictures are -- I mean, this
11 picture is very poor.

12 MR. DARRYL CHAPMAN: I guess because I was
13 there, I have a different visual.

14 JUDGE BAKER: Sure. Sure.

15 MR. DARRYL CHAPMAN: I mean, I understand what
16 you're saying.

17 JUDGE BAKER: I mean, this is the best of the
18 three and I'm not really sure what that is.

19 MR. DARRYL CHAPMAN: That is what the power
20 source is once you take the meter off.

21 JUDGE BAKER: So the meter was, what, here?

22 MR. DARRYL CHAPMAN: That is -- once you take

1 the faceplate off the meter, that's what's behind
2 it.

3 JUDGE BAKER: So the meter's been removed in
4 this picture?

5 MR. DARRYL CHAPMAN: Yes. Those are the power
6 sources right there, those grids, those grid lines.

7 JUDGE BAKER: Here, here, and here?

8 MR. DARRYL CHAPMAN: Those are power sources.
9 Those are left and right power sources.

10 JUDGE BAKER: So now, let's do this --

11 MR. GOLDSTEIN: Let me understand something
12 before we go any further.

13 What we're seeing -- what are we seeing
14 here? Well, first of all, are we marking the first
15 blurred photo as Exhibit 1?

16 JUDGE BAKER: Why we don't do this? Why don't
17 they all be Exhibit 1.

18 MR. GOLDSTEIN: 1A and 1B.

19 (Whereupon, Complainant's
20 Exhibit Nos. 1 and 2 were
21 marked for identification
22 as of this date.)

1 JUDGE BAKER: Yeah.

2 MR. GOLDSTEIN: Which is 1A and which is 1B?

3 JUDGE BAKER: This will be 1A, the orange
4 sticker, and then the one's that indicate top
5 handwritten on them will be B.

6 MR. GOLDSTEIN: Let me make one more comment
7 with respect to Exhibit 1A and then I'll go on to
8 1B.

9 With respect to 1A, we can't even tell
10 from that photograph whether -- whatever the
11 writing is as attached to whatever the orange thing
12 is and whether that orange thing is actually
13 attached to a meter. Okay?

14 With respect to 1B, if that is the fitting
15 without the meter being in front of it, that is
16 beyond the meter, Judge, and is the responsibility
17 of the complainant if it is what it is, and I have
18 no way of telling from the picture.

19 JUDGE BAKER: I understand.

20 So let's go back to September and October
21 of 2010. Can I see a copy of those bills from the
22 company?

1 MR. DARRYL CHAPMAN: And November also,
2 because --

3 JUDGE BAKER: Well, it was resolved
4 October 29th, 2010, so I want the billing periods
5 for -- the bills for those billing periods, so
6 September 2010 and October 2010.

7 MS. BUECHLER: Okay. Judge, I'm referring to
8 ComEd responses to discovery 1.06. This was a copy
9 of the informal complaint and attached to it is the
10 billing.

11 JUDGE BAKER: So where it's 5108 and 5013?

12 MS. BUECHLER: That's correct, Judge.

13 JUDGE BAKER: So now your issue is during those
14 periods you didn't have service, at least --
15 we'll -- again, we'll split it down the middle and
16 say at least half the time?

17 MR. DARRYL CHAPMAN: Yeah. For which time
18 frame?

19 JUDGE BAKER: September and October of 2010.

20 MR. DARRYL CHAPMAN: No. September -- October,
21 none, so if you would say from middle of the month
22 of September to October to the date that they came

1 out, there was no power.

2 JUDGE BAKER: What's the first date you called?
3 Because I had asked this before: What's the first
4 date that you called, contacted ComEd, regarding
5 this issue?

6 MR. DARRYL CHAPMAN: Probably would be the first
7 time we didn't have any power so that would have to
8 be in September.

9 JUDGE BAKER: So since then, since October --
10 since November of 2010 your power situation has
11 been okay?

12 MR. DARRYL CHAPMAN: The only thing of it is I
13 don't want to say okay because if you look at the
14 billing --

15 JUDGE BAKER: I'm not asking about the billing,
16 though. Just when you walk in your unit, the
17 lights turn on?

18 MR. DARRYL CHAPMAN: Exactly. But we've had the
19 electrician come out and do excessive rewiring.

20 JUDGE BAKER: So what is the amount owed on this
21 account?

22 MR. GOLDSTEIN: I show a balance of \$2,064.36.

1 I believe that's --

2 JUDGE BAKER: When was the last payment?

3 MR. GOLDSTEIN: That's as of January 7th, 2013.

4 The last payment made, I think it was
5 testified to by our witness --

6 JUDGE BAKER: Is that for the \$300 -- wait. No.
7 I'm sorry.

8 MR. GOLDSTEIN: I show a \$354.18 payment on
9 September 12th, 2011.

10 MR. DARRYL CHAPMAN: There should be about two
11 or three payments for 300 or more. Each payment we
12 made was about 300 or so. The problem is that --

13 MR. GOLDSTEIN: I don't see anything that's --

14 JUDGE BAKER: So when was it?

15 MS. BUECHLER: September 12th, 2011.

16 JUDGE BAKER: 2011?

17 MS. BUECHLER: Yes, Judge.

18 MR. GOLDSTEIN: That's it. Yeah.

19 JUDGE BAKER: Okay. And --

20 MR. DARRYL CHAPMAN: During this whole time
21 frame we've been reaching out to ComEd and ICC
22 concerning the billing, and we asked them to -- two

1 things: One of them they did do. They just didn't
2 tell us they were doing it.

3 We were asking them to come out and to
4 check our unit as well as the rest of the building
5 to make sure that there was no more tampering
6 because we have a consistent billing cycle and we
7 have a problem with you don't have any knowledge of
8 us not having power. You have a bill for us.

9 You don't have any knowledge of us having
10 tampering, but you have a bill for us. So you have
11 smooth-sailing billing but you have no knowledge of
12 any problems that have went on in the unit, so --

13 JUDGE BAKER: Let me ask you this: If it's an
14 internal unit and you acknowledge that -- you
15 suspect that the previous -- somebody in the
16 building has tampered -- had tampered with those
17 units --

18 MR. DARRYL CHAPMAN: That's my personal feeling.

19 JUDGE BAKER: Well, it appears based on what
20 you're saying. How does that become ComEd's
21 responsibility?

22 MR. DARRYL CHAPMAN: Where ComEd is where --

1 when you get into the actual wiring that's coming
2 into building, that's ComEd, and they went into
3 ComEd wiring to do this.

4 That's a brave soldier to even tamper
5 with --

6 JUDGE BAKER: It was my understanding based on
7 what you just testified, and we can have the court
8 reporter read it back, the issue was internal.

9 MR. DARRYL CHAPMAN: No. It's behind -- it's
10 dealing with the power coming into the building.

11 That's behind the meter. That's not
12 anything done visibly. They actually went into the
13 power source coming into the building and tapped
14 into that and then rerouted -- they're getting
15 power on one, two, or three different units and
16 it's going in but it's only being recorded on one
17 meter.

18 JUDGE BAKER: Right, because it's meter
19 tampering.

20 MR. DARRYL CHAPMAN: Yeah. But it's not just
21 meter tampering. You're sending an overload.

22 That's way too much power going into one particular

1 unit.

2 JUDGE BAKER: But what I'm asking you, and I
3 want to understand your position on this, if
4 there's tampering, how do they become responsible
5 for that?

6 If somebody -- if your neighbor has done
7 something illegal and tampered and is basically
8 stealing electricity --

9 MR. DARRYL CHAPMAN: Correct.

10 JUDGE BAKER: -- from the company, from his
11 fellow tenants, et cetera, how does the company
12 become responsible for that?

13 MR. DARRYL CHAPMAN: Where they're responsible
14 is for one, as the department of building said, the
15 danger of the aspect, that they should have came
16 out and shut it down and actually traced the wire
17 from where it was coming from that we would know --

18 JUDGE BAKER: But didn't they shut it down? I
19 mean, your testimony, again --

20 MR. DARRYL CHAPMAN: They only did me. They
21 only did my unit.

22 They didn't do anyone else because I only

1 paid for one contractor. I wasn't going to pay for
2 them to do the whole building.

3 JUDGE BAKER: Of course you're not going to pay
4 for everybody's units, you know, their issues to be
5 resolved.

6 MR. DARRYL CHAPMAN: But we still do have the
7 same tampering issues at the building. My unit, I
8 just can't tell is this recording my unit or is
9 this recording another unit?

10 This is the problem that I have right now,
11 because I don't know -- they're showing me billing
12 like we've never had any issues and I'm trying to
13 figure out how do you have a bill for a time frame
14 where we have no power and then how do you have
15 power -- you have billing for when we can only get
16 a piece of power through this unit?

17 JUDGE BAKER: Your bills -- now, you had
18 indicated earlier that some people received \$100
19 bills and that there was the one gentleman that was
20 getting a \$17 bill.

21 When I'm going over the amounts of your
22 bill, I mean, it does -- \$53, \$91, \$135, \$51, \$50.

1 So your contention isn't that you -- for
2 those two months or for the entire time that you
3 haven't used electric service because surely you
4 have.

5 MR. DARRYL CHAPMAN: We don't have a problem
6 with that. We need our services.

7 What the problem that I have is how do you
8 determine what we did in January to give me \$135
9 bill and then in February, it's \$51?

10 What did we would do differently during
11 that time frame? Because really we're not home
12 until 6:30, 7:00 o'clock at night.

13 So what happened that month that we get
14 this outstanding amount of billing? And that's how
15 we knew there was some type of tampering or
16 something going on with the billing because it's
17 inaccurate billing.

18 Our lifestyles haven't changed. Nothing's
19 changed but our billing has. And that's more than
20 a 2 percent increase.

21 JUDGE BAKER: Any response?

22 MR. GOLDSTEIN: Judge, whatever the problem is,

1 it's a problem beyond the meter. It's
2 Mr. Chapman's responsibility to fix whatever that
3 problem was. I assume he did.

4 The bills are whatever the bills are.
5 Whatever the electricity flowing through the meter,
6 from the alley into the meter, that's what was
7 recorded and that's what he has to pay for.

8 JUDGE BAKER: Let me ask you this: After this
9 problem in December -- or excuse me, October of
10 2011, do you have that still -- is it still the
11 same meter?

12 MR. DARRYL CHAPMAN: No. The meter has been
13 changed a few times. Each time a guy came out, it
14 looked like he's taking a meter with him, and we're
15 trying to figure out why are you changing the
16 meter. We didn't request you do that.

17 JUDGE BAKER: Well, I would think you'd want the
18 meter changed, though, right, to ensure it's --

19 MR. DARRYL CHAPMAN: We've had about three or
20 four different meter changes. That's what I'm
21 saying.

22 JUDGE BAKER: How many times has the meter been

1 changed?

2 MR. GOLDSTEIN: As far as we know, none. I
3 don't see any change in the meter.

4 MS. BUECHLER: Judge, I think John O'Brien may
5 have spoke to this in his testimony, but based on
6 that meter reading, which was again attached to
7 1.2, Bates stamp 135, there's no record of the
8 meter ever being changed.

9 MR. DARRYL CHAPMAN: That's a problem. And
10 John --

11 MR. GOLDSTEIN: And there's another problem,
12 Judge, going back to Exhibit 1A, and as I pointed
13 out before, there is some writing on something,
14 which we don't know whether it is even a meter --

15 JUDGE BAKER: We've already --

16 MR. GOLDSTEIN: But we don't even know -- and I
17 want to repeat again: We don't even know if that
18 writing is on Mr. Chapman's meter.

19 JUDGE BAKER: What evidence do you have to
20 support that the meter's been changed several
21 times?

22 MR. DARRYL CHAPMAN: I don't know if this

1 gentleman testified that he changed the meter when
2 he came out, and he stated that he only came out
3 once, which he's been out more than -- at least
4 three times, this one particular guy that they had
5 testify.

6 The problem of it is look at the date that
7 he admitted that he came out. It's a year later
8 than the actual incident itself.

9 JUDGE BAKER: Let me ask you this: What
10 evidence do you have that the meter's been changed
11 several times? Do you have something --

12 MR. DARRYL CHAPMAN: I wouldn't be able to show
13 anything. The fact that I walked up on it and saw
14 that the guy -- once I got downstairs when he
15 turned my power off, I asked you, I need to see
16 your ID. Who are you -- in reverse: I asked him,
17 Why are you turning off my power?

18 And he said he's from ComEd. I said, I
19 need to see your ID and what is your badge number?

20 And he gave me that and he's like, May I
21 proceed? And I said fine.

22 Well, the next time he came out I didn't

1 ask for his badge because I had seen him before.

2 JUDGE BAKER: Why was he turning off your power
3 that day?

4 MR. DARRYL CHAPMAN: I don't know why because we
5 hadn't requested no one come out in August so why
6 is he here?

7 JUDGE BAKER: This was August of this last year?

8 MR. DARRYL CHAPMAN: Correct.

9 JUDGE BAKER: What other evidence do you have
10 to --

11 MR. DARRYL CHAPMAN: Just the affidavit of the
12 actual contractor.

13 JUDGE BAKER: And where is Major Warren today?

14 MR. DARRYL CHAPMAN: Like as in body or person?

15 JUDGE BAKER: Yes. Yes.

16 MR. DARRYL CHAPMAN: I have no idea where he's
17 at. He's still a company, though, because I'm
18 aware of that.

19 MR. GOLDSTEIN: Are you a notary, Mr. Chapman?

20 MR. DARRYL CHAPMAN: Am I a notary? No, not
21 anymore.

22 MR. GOLDSTEIN: Yeah. So when you

1 acknowledged --

2 MR. DARRYL CHAPMAN: That I know that person,
3 that he did work for me --

4 MR. GOLDSTEIN: That he appeared and signed
5 this, you acknowledged that on the 25th day of
6 January of this year, 2013?

7 MR. DARRYL CHAPMAN: That he did work for me. I
8 acknowledged that.

9 MR. GOLDSTEIN: And who signed this?

10 MR. DARRYL CHAPMAN: That is Mr. Warren, and I'm
11 acknowledging that he did the work, so that's not a
12 notary public.

13 MR. GOLDSTEIN: Well --

14 JUDGE BAKER: So let's -- I think we can kind of
15 wrap this up.

16 At the end, what money damage -- and I
17 hate to use that word. But what monies are you
18 contesting? Because you acknowledge that you've
19 been receiving electric service for --

20 MR. DARRYL CHAPMAN: To this point, right.

21 JUDGE BAKER: So what portion of these bills are
22 you contesting?

1 MR. DARRYL CHAPMAN: Well, basically I'm
2 contesting all of them because we wanted an
3 accurate reading, but the problem of it this should
4 have been handled months back and it wouldn't have
5 gotten --

6 JUDGE BAKER: Okay. But let me just understand
7 this: So you're saying the \$2,000 balance that you
8 have, you shouldn't have to pay any of that?

9 MR. DARRYL CHAPMAN: I shouldn't have that,
10 because it doesn't even add up. The fluctuation in
11 the months doesn't make sense. It doesn't make --

12 JUDGE BAKER: So the whole 2,000 you think --

13 MR. DARRYL CHAPMAN: No. If they have in their
14 mind that we're going to get 900 to \$1,000 per unit
15 per year, then that would be the accurate ratio per
16 unit and that would have made sense.

17 But how can you prove that this was just
18 my unit? That's the problem that we have with
19 that.

20 JUDGE BAKER: And I understand that, but here's
21 what I need to know: What you're requesting
22 because you acknowledge that you had electricity.

1 MR. DARRYL CHAPMAN: Right.

2 JUDGE BAKER: So a portion of whatever the
3 bill -- we'll say the bill is \$100.

4 What portion are you claiming would be
5 legitimate and what portion are you claiming is
6 not?

7 MR. DARRYL CHAPMAN: I don't have an accurate
8 amount, but because --

9 JUDGE BAKER: I mean, I understand that's
10 difficult, that question is difficult, but --

11 MR. DARRYL CHAPMAN: Because we had power -- at
12 least a third of this we've had power to it, if not
13 a little bit more.

14 But to actually say half, it wouldn't make
15 sense to me because if those bills were just like
16 flat across \$50 a month, \$60 a month, I don't have
17 a problem with the fact that you're billing me for
18 a time frame we didn't have power. I would still
19 have a problem with the fact that you have an
20 accurate reading for something that was inaccurate,
21 but at least it would be a stable amount.

22 To have these months where it just

1 fluctuates beyond understanding --

2 JUDGE BAKER: But depending on heat, depending
3 on air-conditioning, that can happen, especially
4 when I look back at the months, it appears, you
5 know, you're consuming more in the summer with
6 air-conditioning.

7 MR. DARRYL CHAPMAN: In the month of December,
8 Christmastime?

9 JUDGE BAKER: Yeah.

10 MR. DARRYL CHAPMAN: I'm Jewish. How are we --
11 I'm sorry. I'm trying to get this whole
12 understanding.

13 JUDGE BAKER: Do you have electric heat?

14 MR. DARRYL CHAPMAN: No. We have gas heat.
15 There's no justification to say --

16 JUDGE BAKER: I mean, do you have any other
17 evidence?

18 MR. DARRYL CHAPMAN: That would be it right
19 there.

20 JUDGE BAKER: Okay. Did I enter those exhibits?

21 THE COURT REPORTER: No.

22 JUDGE BAKER: I'll do that now.

1 MR. DARRYL CHAPMAN: And the loss of our food
2 and definitely our pain and suffering for that time
3 frame.

4 JUDGE BAKER: Unfortunately, I can't compensate
5 you. Even if that were to be the case that I
6 agreed that you had all of those things legally
7 coming to you, this isn't the venue in which I can
8 compensate you for that. That's --

9 MR. DARRYL CHAPMAN: Across the street.

10 JUDGE BAKER: Yes.

11 So let the record reflect that I'm
12 entering Complainant's Exhibit 1A, which consists
13 of two photographs, and 1B.

14 (Whereupon, Complainant's
15 Exhibit Nos. 1A and 1B were
16 admitted into evidence as
17 of this date.)

18 MR. DARRYL CHAPMAN: And the affidavit?

19 JUDGE BAKER: Do you have an objection to the
20 affidavit?

21 MR. DARRYL CHAPMAN: From the actual contractor
22 who did the work?

1 MR. GOLDSTEIN: Well, let me say this about the
2 affidavit, Judge: It's obviously inadmissible
3 because I don't have the opportunity to
4 cross-examine Mr. Warren and the fact that
5 Mr. Chapman verified his signature even though he's
6 not a notary is really suspect, to say the least.

7 So it's inadmissible, but what the
8 affidavit does say, and I think that what is
9 important, is that the problem was the internal
10 wiring in the building.

11 That is the responsibility of the
12 association, its unit owners, and one of those unit
13 owner is Mr. Chapman.

14 JUDGE BAKER: So do you have an objection to
15 this?

16 MR. GOLDSTEIN: I guess I have a technical
17 objection to it, yes.

18 JUDGE BAKER: I'm going to overrule your
19 technical objection and I'm going to allow it in.

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1 (Whereupon, Complainant's
2 Exhibit No. 2 was
3 admitted into evidence as
4 of this date.)

5 JUDGE BAKER: Do we have anything further? Do
6 any of the parties wish to make a closing
7 statement?

8 MR. DARRYL CHAPMAN: After you I'll make mine.

9 MR. GOLDSTEIN: No. You go first.

10 JUDGE BAKER: It is yours.

11 MR. DARRYL CHAPMAN: Well, my closing statement
12 would be that had this not been drug out the
13 distance that it had, there could have been a
14 remedy for this, whether it had been a credit to
15 our account or anything.

16 But this gentleman keeps making knowledge
17 there was a wiring problem. There's no wiring
18 problem. This is a power source. This is not
19 wiring. This is the actual power source that they
20 put in place, not a contractor.

21 And for his response to not having any
22 dates for this time frame that these tragedies have

1 taken place, it's suspect, and the mere fact that
2 everything we brought to their attention that you
3 would think they would want to receive as knowledge
4 to make sure it doesn't happen again, he in turn
5 decides he wants to protest against it as if to say
6 nothing's wrong with it.

7 In either case, my closing statement would
8 be liability is partial of ComEd for not making
9 that building safe. Knowing that there was a
10 problem that their technician would put a tag on a
11 meter and shut down complete power, that says there
12 is a problem and we're going to make sure it's safe
13 until it's corrected.

14 If they look at their own ComEd Web site
15 or you dial the 800 number and you ask them point
16 blank what do you do if there's a problem with a
17 meter, they'll tell you, We tag it.

18 We feel that they should have stepped up
19 and do diligence to make sure that my family was
20 safe and not have charged me and tell me that I
21 should go to 58 units and have all of them to sign
22 off on me paying for to correct this issue when

1 they have already come out and acknowledged this is
2 what the problem is.

3 And the owners cannot take care of that.

4 That is something for a ComEd someone who
5 understands serious levels of power to a 58-unit
6 building. That's not your regular contractor.

7 That is someone that actually knows their own power
8 source and what needs to be done.

9 And we did not get that cooperation from
10 them. In fact, we were talked to on occasions by a
11 rude individual where I in turn had to file a
12 complaint against one of their persons.

13 Of course, she did call back and apologize
14 after her superior spoke with her.

15 It's a fact of the matter while you're in
16 your home with your family you don't have power,
17 that's not the time frame you want your power
18 company to start to act oblivious to your problem
19 and then take their time responding to it and then
20 the audacity to come into court and act like it
21 didn't happen.

22 So that would be my final statement.

1 MR. GOLDSTEIN: Judge, if you look at the
2 exhibits that have been presented by ComEd, you
3 will see, particularly with to the activity
4 statement, that the billing has been consistent
5 throughout the two-year period shown on the
6 activity statement.

7 This is obviously an internal wiring issue
8 that is the responsibility of Mr. Chapman and the
9 other unit owners in this condominium building.
10 There is no evidence of any wrongdoing on the part
11 of Commonwealth Edison Company.

12 There's no tragedy. Mr. Chapman used
13 electricity for over two years and over that
14 two-year time frame he only made one single payment
15 on his account, one payment for a two-year period.

16 MR. DARRYL CHAPMAN: I object. We have the
17 receipts to show --

18 MR. GOLDSTEIN: He used the electricity over
19 that time period.

20 There is no evidence that the building was
21 unsafe. He's not presented one stitch of evidence
22 that the building is unsafe.

1 The affidavit that you've admitted into
2 evidence is an affidavit of Mr. Major Warren. It's
3 not even on a particular letterhead. There is no
4 date that he said that he actually came out, if you
5 read the affidavit.

6 I don't know what evidentiary value
7 there is to any of the exhibits that Mr. Chapman
8 presented. You certainly can't see anything from
9 the photographs, and I've objected throughout this
10 proceeding today to the photographs.

11 The bottom line of it is Mr. Chapman owes
12 \$2,000 to ComEd. He should be required to pay that
13 \$2,000 in order to retain service.

14 MR. DARRYL CHAPMAN: Is there a rebuttal?

15 JUDGE BAKER: You can rebut.

16 MR. DARRYL CHAPMAN: I would object to
17 counselor's statement. We have the receipts to
18 show for all of our payments.

19 And again, to be a utility provider and
20 not provide the service but yet have billing, a
21 company of integrity, a counsel of integrity would
22 be the first one to step up and say, Those months,

1 we're not going to charge you for that and we'll
2 give you a credit for whatever your suffering has
3 been.

4 And that probably would have been close to
5 something acceptable to say, you know, let's move
6 forward.

7 The fact that, you know, his statement,
8 you know, is of a negative, it doesn't even address
9 the issue at hand. He just wants to address the
10 fact that the issue has been exposed and not
11 address the issue at hand. It's insulting.

12 JUDGE BAKER: Let me ask you this: Did you
13 write this?

14 MR. DARRYL CHAPMAN: Did I write it?

15 JUDGE BAKER: Yeah.

16 MR. DARRYL CHAPMAN: The attorney drew it up for
17 Mr. Warren or his -- whoever. You can ask him
18 yourself.

19 JUDGE BAKER: I'm certainly not going to ask
20 but -- okay.

21 All right. With that, I will mark this
22 record heard and taken.

1 HEARD & TAKEN ...

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